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DIGEST OF OTHER RECENT VIRGINIA DECISIONS.

Supreme Court of Appeals.

Note.—In this department we give the syllabus of every case decided by the Virginia Supreme Court of Appeals, except of such cases as are reported in full.

TYSOR et ux. v. ADAMS.

March 12, 1914.

[81 S. E. 76.]

Deeds (§ 19*)—Consideration—Support—Breach of Condition.—Complainant, an old man, having conveyed his house to defendants, on condition that he was to make it his home with them, and be there supported and cared for by them during his life, is entitled to cancellation of the deed; they having not only treated him harshly but moved away, leaving him alone, even if they invited him to go with them.

[Ed. Note.—For other cases, see Deeds, Cent. Dig. § 38; Dec. Dig. § 19.* 11 Va.-W. Va. Enc. Dig. 893; 15 Va.-W. Va. Enc. Dig. 872.]

Appeal from Circuit Court of City of Norfolk.

Suit by Charles E. Adams, suing by his next friend, against L. W. Tysor and wife. Decree for complainant, and defendants appeal. Affirmed.

E. R. F. Wells, of Norfolk, for appellants.

R. Randolph Hicks, of Norfolk, for appellee.

WILLIAMS v. LIPHART.

March 12, 1914.

[81 S. E. 77.]

Bills and Notes (§ 318*)—Transfer—Defenses.—Plaintiff, being indebted to a corporation of which he was an officer, executed a demand note, payable to the order of the corporation, to cover the indebtedness, pursuant to a resolution of the board of directors that the note be executed for the amount due the company, with interest averaged at 6 per cent, with a further understanding that the note be subject to a monthly payment as curtail at the pleasure of the board of directors. Held that, the note being payable to order, it was necessarily transferable, and, the corporation having transferred it to defendant, the board lost all control over it, and had no

*For other cases see same topic and section NUMBER in Dec. Dig. & Am. Dig. Key No. Series & Rep'r Indexes.

authority to exercise their pleasure under the resolution in the matter of granting indulgence to plaintiff in payment thereof.

[Ed. Note.—For other cases, see Bills and Notes, Cent. Dig. § 754; Dec. Dig. § 318.* 2 Va.-W. Va. Enc. Dig. 474.]

Error to Hustings Court of City of Richmond.

Action by C. M. Liphart against C. N. Williams, Jr. From a judgment for plaintiff denying defendant's set-off, he brings error. Reversed.

Overton Howard and J. Kent Rawley, both of Richmond, for plaintiff in error.

Wyndham R. Meredith, of Richmond, for defendant in error.

LAKE'S ADM'R *v.* PATTIE et al.

March 12, 1914.

[81 S. E. 78.]

1. Executors and Administrators (§ 111*)—Allowance for Counsel Fees—Benefit to Estate.—The administrator of a husband employed counsel to defend a suit by the administrator of the wife to recover debts claimed by the wife, to subject a fund arising from the sale of land conveyed by the husband to a trustee for creditors, etc., and to marshal assets for the creditors. The executors and distributees, of which the wife was one, were made parties, but made no defense. Counsel, nine months after suit, compromised it by awarding the wife's estate a portion of the trust fund, and paying the remainder into the husband's estate, which resulted in a 60 to 70 per cent reduction in the amount claimed. Held, that the husband's administrator was justified in paying counsel a reasonable counsel fee from such estate, to be paid before the creditors or distributees were paid anything; and the contention that the estate of the wife as distributee received no benefit from such service was unavailing.

[Ed. Note.—For other cases, see Executors and Administrators, Cent. Dig. §§ 448-462; Dec. Dig. § 111.* 5 Va.-W. Va. Enc. Dig. 654.]

2. Executors and Administrators (§ 433*)—Duty to Defend Suit.—The personal representative of a decedent's estate is not a mere stakeholder, but is the legal owner of the personal estate, and the fact that a creditor who sued to enforce a claim against the estate was also a distributee would not render it any less the duty of the personal representative to make defense.

[Ed. Note.—For other cases, see Executors and Administrators,

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